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January 10, 2003

Ulrike Winkler, PhD
Examiner
United States Patent and Trademark Office
Washington, D.C. 20231

Our Ref.: DT-3073/43816.1

Re: Application No. 09/380,015
in the name of Carsten Korth
filed on August 23, 1999

Dear Dr. Winkler:

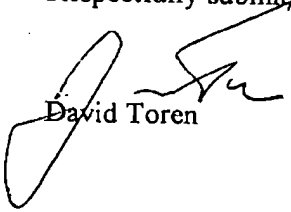
Pursuant to our telephone conversation of today, I am sending you a copy of the Decision by the Federal Circuit in Ciba Geigy Corp. v. Alza Corp. 37 U.S.P.Q. 2D. Please refer to the check marked sentence reading "Thus, although references cannot be combined for purposes of anticipation, additional references may be used to interpret the allegedly anticipating reference and shed light on [*1340] what it would have meant to those skilled in the art at the time of invention."

Please note that the Decision also refers to the Continental Can Co. U.S.A. Inc. Decision mentioned in the Office Action. In view of the above, it is our position that the Billeter Publication should not have been mentioned as having been published subsequent to the effective filing date (priority date) of the present application.

As discussed, I will contact the inventor through his German patent attorney and arrange for an interview as agreed upon by you.

If you have any thoughts on the Billeter publication, please give me a ring. My direct telephone number is (212) 839-7355 and my direct fax number is (212) 906-2068.

Respectfully submitted,


David Toren

DT:jh
attachment

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